

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.23109 OF 2004

ORDER

This writ petition is filed seeking the following relief:

“...To declare the action of the Respondents in not computing the periodical increments in fixing the pay scale of the petitioner pursuant to the Award dt 31.10.1989 in ID 166/1989 as arbitrary and illegal by issuing a Writ, Order, Direction more particularly one in the nature of Writ of Mandamus and consequently direct the respondents to compute the periodical increments that would have been earned by the petitioner had he been in service during the period 26.7.1984 to 27.2.1990 and after determination of such increments and on the basis of the same to fix the pay scale/wages to the petitioner after his reinstatement i.e 27.2.1990 and to pay the arrears in respect of the period subsequent to his reinstatement and to pass such other order or orders as this Honourable Court may deem fit and proper in the circumstances of the case.”

Learned counsel appearing for the petitioner submits that though the Labour Court gave a finding that the order of removal is not justified, in all fairness, it ought to have granted back wages and also notional increments and that appropriate orders be passed directing the respondents to grant back wages and also notional increments.

Learned Standing Counsel appearing for the respondent-Corporation contends that the Labour Court has rightly passed the orders reinstating the petitioner into service by setting aside the order of removal; that the Labour Court consciously denied the back wages and declined to exercise

its powers under Section 11-A of the Industrial Disputes Act, 1947, in not granting back wages and notional increments; and that in view of the judgment of the Apex Court in *APSRTC and another vs. S.Narsagoud*¹, the petitioner is not entitled for notional increments.

Having considered the rival submissions made by the learned counsel on either side, this Court is of the considered view that unless and until a grave irregularity or illegality has been pointed out by the petitioner, this Court cannot interfere with the Award passed by the Labour Court. The Labour Court has rightly passed the Award by setting aside the removal order and denying the back wages and notional increments. In view of the judgment of the Apex Court in *APSRTC and another vs. S.Narsagoud* supra, this Court is not inclined to grant notional increments and back wages. There are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

27th December, 2018
rkk

¹ (2003) 2 SCC 212

